



Consumer Product Safety Commission (CPSC)
Staff Forum: Tracking Labels for Children's Products
05/12/09

Thank you for allowing me the opportunity to express the views of the footwear industry as they relate to the tracking label requirements on children's products under the Consumer Product Safety Improvement Act (CPSIA). My name is Matt Priest, and I am the president of the Footwear Distributors and Retailers of America (FDRA).

FDRA is the footwear industry's premier trade association representing leading footwear retailers, brands and buying agents. We account for approximately 80% of all footwear sales in the United States. So, it goes without saying that these new tracking label requirements, and the underlying law, are of particular interest to our members.

As we are all well aware, Section 103 of the CPSIA requires that children's products have "permanent, distinguishing marks on the product and its packaging, to the extent practicable" that will permit the ultimate purchaser "to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including the batch, run number, or other identifying characteristic)." The plain purpose of this provision is to ensure that, in the event of a recall, consumers are able to identify the product involved.

Although the tracking label requirement does not go into effect until mid-August and then only for products manufactured on or after that date, it is important to importers and retailers that the Commission's views with respect to the tracking label requirements be issued as promptly as possible. As a matter of fact, orders for products to be manufactured on and after mid-August are being placed now. I should say that FDRA strongly supports NAM's petition requesting that the Commission suspend enforcement of the tracking label requirements until August 2010. At a minimum, this additional time will afford all of us the opportunity to continue this dialogue – especially during a time of transition and change at the Commission.

FDRA proposes that the tracking label requirement be satisfied by use of a unique identifier on the product. The unique identifier could take a number of forms. Most imported footwear has identifying marks that enable importers, private labelers, retailers and ultimately consumers, to identify the product. These unique identifiers usually consist of numerals or a combination of numbers and letters and allow the product to be traced to particular manufacturers, origins as well as a general period

of production. It is not normal for footwear manufacturers and/or importers to record batch or run information for the reason that most footwear styles are not produced for an extended period. When footwear styles are produced over an extended period, there will be multiple purchase orders and/or style number changes. The unique identifiers proposed by FDRA allow products to be identified as to the place, and time (year/month) of manufacture, and in some cases a particular shipment, even in the absence of complete cohort information.

These unique identifiers can take a number of forms. They might represent a style, a purchase order, a shipment or an arbitrary tracking number. A consumer having this information is able to contact the retailer or brand, who, based on the identifier, will be able to isolate the product, place, and date of manufacture as well as available cohort information. The means of contact can vary from the use of a website to a toll-free phone number and FDRA urges that the Commission allow wide discretion in this respect.

In addition to the unique identifier, the product and packaging would have a reference to the retailer or private labeler, usually in the form of a permanent label of some sort. The combination of the unique identifier and the identity of the brand, private labeler or retailer is sufficient to enable a consumer to ascertain the requisite product information.

Use of these codes is and will continue to be effective. For example, the Commission recently issued a notice relating to boy's pajamas that failed to meet children's sleepwear flammability standards. (Release #09-103) The pajamas were the subject of a voluntary recall. The products were identified by reference to an item number that appeared on sewn-in labels in the neck of the pajama top and the waistband of the pajama bottoms. Clearly, use of this item number (a code or unique identifier) is sufficient to allow consumers to identify whether a product in their possession is covered by the recall.

To summarize, it is FDRA's view that the tracking label requirement is satisfied by a unique identifier coupled with the identity of the brand, retailer and/or private labeler. With the unique identifier, the retailer or private labeler will be able to identify the manufacturer, date of manufacture and all other pertinent information. Nothing further is necessary or practicable.

In addition, FDRA urges that the Commission make it clear that this information is required only in a recall or similar situation. Access to this information should not be granted without some specific need. If this is not the case, importers, retailers and private labelers run the risk that confidential and proprietary business information will become available to competitors. Accordingly, FDRA asks that the Commission make it clear that this information need not be divulged except under the appropriate circumstances.

More specifically, I'd like to provide brief comments on some areas of interest that were outlined by the Commission in its request for comments. Practicable is one of those themes that seems to surface with every discussion surrounding the CPSIA.

In the case of children's footwear, it will be impractical to provide any type of unique identifier on some children's footwear – for example, a child's zori or flip-flop. A zori is a flat sandal with a thong upper, typically not sold with any type of packaging. The retail price for a child's zori can run as low as \$1.99. Consumer information is communicated through the use of hang tags or stickers. A sticker could be used to display a unique identifier but would not survive extended wear by the consumer.

The areas on children's footwear available to recite the information apparently required by Section 103 are severely limited. The only practicable ones are the heel seat and the lining area around the heel. Other areas are not visible to the consumer. A single identifier can be printed in the area but requiring additional information will not be practicable. Simply put, there is very little room on most children's footwear.

Turning our focus to the effect of uniformity on manufacturers and consumers, it is FDRA's belief that requiring a uniform tracking label system is expensive, but more importantly, unnecessary. Many manufacturers have existing systems that enable them to identify the source of a product, the date of manufacture, and country of origin. These systems are in place, are working, and will adequately meet the need to ascertain information upon request from a consumer. Therefore, lack of uniformity will not have an adverse impact on the consumer.

Finally, I'd like to discuss the tracking label requirements as they relate to packaging. There is some confusion as to whether a label should be applied to the box – even when, under normal circumstances, boxes are not kept with the accompanying shoes for the life of the product. Some shoes are not sold with boxes but instead are packaged using polybags and hangers. It would be very helpful if the Commission would clarify its views regarding packaging requirements.

There are other issues that I have not touched upon due to our time constraints. I think the Commission understands the many uncertainties that have surrounded this law. I greatly appreciate your willingness to host these forums so that we can continue this on-going discussion regarding implementation of the CPSIA. We are well aware you are stretched and have limited resources but are hopeful that you will continue to allow us the opportunity to supply comments and meet with you as we search for clarity and certainty for our members.

Thank you again for this opportunity. I'm happy to answer any questions you might have.